

AES Guayama
Regional Administrator Talking Points
December 17, 2012, Meeting

Basis for Concern

Agremax, an aggregate of hydrated coal ash from the AES Guayama power plant, is being sold as a product under a Puerto Rico EQB resolution excluding it from being a solid waste and deposited on the ground as structural fill and road construction, which we consider disposal due to the excessive amounts used and the underlying toxicity of the ash.

The EQB resolution does not require any environmental or engineering controls for Agremax, as are required by many states for beneficial coal ash reuse. The resolution is based on the RCRA Toxicity Characteristic Leaching Procedure, a test not designed to measure leaching under the conditions Agremax is being used.

We understand that the power purchase agreement negotiated by AES specifies that 100 percent of the ash generated by the Guayama plant will be beneficially reused. AES has no disposal capacity for the ash, which is generated at a rate of over 4,000 tons per week. The national average for recycling of coal ash is in the range of 30 – 40 percent. AES informed us that it disposes of coal ash generated at many of its mainland plants in state permitted landfills.

Agremax has been used as structural fill in alleged production water well field owned by AES is located north of the power plant, over the South Coast drinking water aquifer, in a flood zone adjacent to wetlands and the Guaymani River (reportedly used for subsistence fishing), and upgradient of numerous private wells believed to be used for drinking and irrigation water supply.

The AES well field and other Agremax use sites appear similar to known or potential damage cases documented by EPA from unlined coal ash landfills, in which off-site damage to drinking water sources have occurred after years of leaching.

Analysis of Agremax conducted by the Office of Research and Development confirms that Agremax, as a material, leaches orders of magnitude above the EPA Maximum Contaminant Level drinking water standard for arsenic, as well as above the EPA CERCLA Residential Screening Levels for several heavy metals.

Ex. 5 - Deliberative

Actions Required

EPA has proposed AES enter into a RCRA 7003 Order on Consent with the following injunctive relief:

- Detection monitoring at the well field and power plant, with triggers for corrective action.
- Construction of an impervious pad for Agremax storage at the power plant.
- Environmental and engineering controls for future Agremax use, subject to EPA review.
- Construction of a RCRA-compliant monofill for disposal of ash/Agremax not reused (such construction was suggested by AES during at the March 2012 EPA sampling inspection at the power plant, but has not subsequently been discussed by AES).

AES Position

In a December 10, 2012, teleconference with EPA, AES stated their fundamental disagreement with EPA's position on Agremax, disputed all references to risk, and reiterated its position that it is legally producing and marketing a safe, trademarked product. AES also recently provided us a letter it sent to EQB refuting our comments to the EQB draft guidelines.